

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Digital Broadcast Content Protection</b>	)	<b>MB Docket No. 02-230</b>
	)	

**COMMENTS OF ATI TECHNOLOGIES, INC.**

ATI Technologies, Inc. ("ATI") hereby submits the following comments on the Further Notice of Proposed Rulemaking in the above captioned proceeding (the "Broadcast Protection Order").

ATI is a leading supplier of digital television demodulator and visual image processing products for the personal computer and consumer electronic industries. In addition to being one of the world's largest computer graphics chip suppliers, it develops and sells add-in boards for the personal computer that allow consumers to watch and record analog television on the computer.

**I. Technology Companies Should Self-Certify Output Protection and Recording Technologies Based on the Criteria Outlined in the Commission's Order**

In the Commission's interim rules, it set forth a series of functional criteria to be followed in any Commission decision on a proposed technology.<sup>1</sup> Companies with proposed technologies should be permitted to self-certify that their technology meets the criteria set forth in the Commission's rules. If the certification is not challenged

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<sup>1</sup> Digital Broadcast Content Protection, *Report and Order and Further Notice of Proposed Rule Making*, MB Docket No. 02-230 (rel. Nov. 4, 2003) ("Order") §73.9008(d).

by a party with standing to file such a challenge, then the technology should be available to manufacturers producing compliant products. If a party with standing files an appeal, the Commission should review the certification on an expedited basis. Content protection schemes are complex usually involving cryptography. The company providing such a product will be in the best position to certify that its product meets the Commission's criteria. Nevertheless, the availability of an appeal mechanism will provide a safety valve insuring that if a party believes that the technology does not meet the criteria, it may request Commission review.<sup>2</sup>

## II. An Independent Entity Composed of Consumer Electronics and Information Technology Companies and Consumer Representatives Should Make Revocation Determinations

Each year ATI spends millions of dollars and many hours of valuable engineering time researching and developing technologies for its innovative products. We rely on viable and sustainable technologies and standards in order to recoup development costs. If an Approved Output Protection Technology or an Approved Recording Technology were revoked it could have serious financial and product cycle ramifications for device and silicon suppliers.

Furthermore, ATI believes that content owners,<sup>3</sup> the Commission and qualified third parties are not the appropriate entities to make revocation determinations because, as

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<sup>2</sup> A party requesting an appeal should be required to set forth in detail why it believes the technology does not meet the Commission's criteria. An appeal should be summarily dismissed when it only asserts a bare claim that the proposed technology does not meet the criteria.

<sup>3</sup> Content providers may argue that it is their content at risk. That very argument weighs heavily against their having the ability to make revocation determinations. Since revoking a technology is costless to

far as we are aware, none of these parties invest in the development of technologies for the personal computer or consumer electronics industries nor are they the intended end consumers of digital television receiving devices. None of these parties are at risk monetarily if a technology is revoked. This may lead to ill informed decisions and consumer interoperability issues. Only an independent entity representing the consumer electronics and information technology industries and consumer interests should make revocation determinations. In cases of dispute between parties and the independent entity the Commission should act as final arbiter.

Revocation of a technology should never, under any circumstances, be retroactive. It should only occur after decision by the independent entity and only on a going-forward basis. As noted, ATI and other silicon suppliers will spend a considerable amount of time and money incorporating content protection and recording technologies into their products. In order to recoup these expensive development costs and allow for time-consuming redesign efforts, a product cannot be withdrawn from the market until its natural obsolescence. Indeed, the natural product cycle is not to stop producing a chip when a new chip, with more features, speed, and functionality is released. Rather, the new design is used in high-range products, older design chips are price reduced and sold for mid-range products, in turn displacing the mid-range chip to the low range.

Revoking a technology before technological and market forces make the product that incorporates that technology obsolete could cost vendors hundreds of millions of

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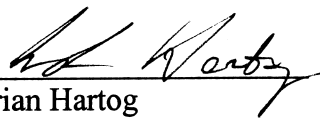
content providers, their natural inclination will be to revoke a technology whenever there is the slightest indication that the technology might have been hacked, even if the hack would have no significant impact on the utility of the technology. Moreover, as noted, content owners would be able to appeal an entity decision to the Commission.

dollars. Companies would naturally attempt to pass these costs on to consumers. In addition, silicon fabricators may be forced to abandon plans to cost reduced and to forgo improving chips in their natural cycle chilling innovation to consumer's detriment.

An independent body composed of consumer electronics and information technology representatives and representatives of consumers (such as Public Knowledge and Consumers Union that have participated in this proceeding) would be in an ideal position to weigh the benefits of revoking a technology versus the harm to companies and consumers. In the event the subject of the body's decision believed the entity's decision was improper, it could appeal to the Commission.

Accordingly, ATI respectfully requests that (a) the Commission allow technology companies to self-certify output protection and recording technologies (b) revocation only be considered on a going-forward basis and (c) the Commission appoint an independent entity composed of the various industry and consumer interests to make approval and revocation determinations.

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